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Calendar No. 91

100TH CONGRESS
1st Session

SENATE

REPORT
100-39

SANTA FE NATIONAL HISTORIC TRAIL

APRIL 10 (legislative day, MARCH 30), 1987.—Ordered to be printed

Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany H.R. 240]

The Committee on Energy and Natural Resources, to which was referred the act (H.R. 240) to amend the National Trails System Act to designate the Santa Fe Trail as a national historic trail, having considered the same, reports favorably thereon without amendment and recommends that the act do pass.

PURPOSE OF THE MEASURE

The purpose of H.R. 240 is to amend the National Trails System Act to designate the Santa Fe Trail as a national historic trail.

BACKGROUND AND NEED

From 1822 to 1880, the Santa Fe Trail was one of America's most important commercial routes, established to expedite trade with the Spanish of the Southwest. It also served as a major military and governmental link with the newly acquired territories of the Southwestern United States.

During its history, the Santa Fe Trail originated at several different points in Missouri before finally settling upon Independence as the staging point. From there, it traversed southwest through Kansas before branching off at the Cimarron Cutoff. One branch proceeded through Colorado and another across the Oklahoma Panhandle, rejoining near Fort Union, NM, and proceeding to Santa Fe, NM.

The Santa Fe Trail passes through several national park units, including Fort Larned National Historic Site, Bent's Old Fort National Historic Site, Fort Union National Monument, and Pecos

91-010

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National Monument. Today, because of development and the weathering process, much of the actual trail is obliterated. There are only scattered, small segments where the original trail ruts can be seen.

Public Law 90-543, the National Trails System Act, listed the Santa Fe Trail as 1 of 14 trails to be studied for possible inclusion in the National Trails System. The study was completed by the Department of the Interior in July 1976. The study noted that while the Santa Fe Trail was of national historic significance, it did not meet the then-existing criteria for designation as a national scenic or recreational trail.

In 1978, Congress added a new category of trails—historic trails—to the National Trails System. Since that time, several trails have been designated whose primary importance today is of historic nature. In the view of the committee, the Santa Fe Trail is a worthy candidate for inclusion in the system as a national historic trail.

The report of the House Committee on Interior and Insular Affairs regarding this measure (House Report 100-16) includes a brief discussion of the provisions in the act regarding the notification of potential liability; the composition of the advisory council for the trail; and the importance of the trail for tourism. The committee concurs with the intent of this House report language.

The committee believes that the Santa Fe National Historic Trail should be administered through the Southwestern Regional Office of the National Park Service. Many miles of the trail have been obliterated by weather and development over the past 100 years. The largest portion of the segments which possess original trail ruts are found within the Southwestern Region and many of the sites where the National Park Service could provide interpretive services about the trail are found within that region. In addition, a significant amount of the proposed trail segments currently under public ownership are within the Southwestern Region. Therefore, the committee believes that the Southwestern Regional Office should administer the trail.

LEGISLATIVE HISTORY

H.R. 240 passed the House on March 10, 1987. A Senate companion bill, S. 349 was introduced by Senator Kassebaum and 11 cosponsors on January 21, 1987. A hearing on both proposals was held before the Public Lands, National Parks and Forests Subcommittee on March 27.

At a business meeting on April 8, 1987, the Senate Committee on Energy and Natural Resources ordered H.R. 240 favorably reported.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on April 8, 1987, by unanimous vote on a quorum present recommends that the Senate pass H.R. 240, as described herein.

The rollcall vote on reporting the measure was 19 yeas, 0 nays as follows:

YEAS	NAYS
Mr. Johnston	
Mr. Bumpers	
Mr. Ford*	
Mr. Metzenbaum*	
Mr. Melcher	
Mr. Bradley	
Mr. Bingaman	
Mr. Wirth	
Mr. Fowler	
Mr. Conrad	
Mr. McClure	
Mr. Hatfield*	
Mr. Weicker*	
Mr. Domenici*	
Mr. Wallop	
Mr. Murkowski*	
Mr. Nickles*	
Mr. Hecht*	
Mr. Evans	

*Indicates voted by proxy.

Cost and Budgetary Considerations

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. Congress,
Congressional Budget Office,
Washington, DC, April 9, 1987.

Hon. J. Bennett Johnston,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed H.R. 240, an act to amend the National Trails System Act to designate the Sante Fe Trail as a National Historic Trail, as ordered reported by the Senate Committee on Energy and Natural Resources, April 8, 1987.

H.R. 240 would provide that the Sante Fe Trail be administered as a National Historic Trail by the Department of the Interior and would authorize the appropriation of such sums as may be necessary for this purpose. Based on information provided by the National Park Service, CBO estimates that initial costs of about $100,000 would be incurred for activities related to the establishment of the Trail. Ongoing operating and maintenance expenses are not expected to be significant.

Enactment of the bill would not effect the budgets of state or local governments.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

Edward M. Gramlich,
Acting Director.

Regulatory Impact Evaluation

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 240. The act is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of H.R. 240, as reported.

Executive Communications

The pertinent legislative report received by the committee from the Department of the Interior setting forth executive agency recommendations relating to H.R. 240 is set forth below:

U.S. Department of the Interior,
Office of the Secretary,
Washington, DC, April 2, 1987.

Hon. J. Bennett Johnston,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

Dear Mr. Chairman: This responds to your request for our views on S. 349, "To designate the Sante Fe Trail as an Historic Trail under the National Trails System Act," and H.R. 240, "To amend the National Trails System Act to designate the Sante Fe Trail as a National Historic Trail."

We recommend the enactment of either bill.

S. 349 and H.R. 240 would amend the National Trails System Act to designate the Sante Fe Trail as a national historic trail under the 1968 National Trails System Act (P.L. 90–543). That Act listed 14 trails to be studied to determine their suitability for inclusion in the national trails system. The Sante Fe Trail is one of the routes that was required to be studied under the original National Trails System Act. At that time, there were two classes of trail—national scenic trails and national recreation trails. Criteria developed in 1969 for the evaluation of potential trail segments required that national scenic trails include superior scenic, historical, natural, and cultural values. Furthermore, they should be of extended length and located so as to provide for maximum outdoor recreational opportunities and potential. Also, trails should be capable of promoting national interests and, insofar as practical, be void of incompatible developments and activities that would detract from the natural and scenic conditions.

In accordance with the National Trails System Act and the criteria developed by the Secretary of the Interior and the Secretary of Agriculture to assess potential trail segments as indicated above, the former Bureau of Outdoor Recreation of this Department studied the desirability and feasibility of designating the Santa Fe Trail as a national scenic trail. That study was completed in 1975 and transmitted to the Congress in 1977.

The study found that the Santa Fe Trail is nationally significant. The Santa Fe Trail, during the period from about 1820 to 1880, was one of the most significant commercial trade routes in the history of the Southwest. It was approximately 950 miles in length, from Arrow Rock, Missouri, through Independence to Santa Fe, New Mexico. However, the study also determined that little remains currently to mark its original physical route. Further, the study concluded that the scenic and recreational qualities are neither sufficient nor varied enough to attract a nationwide audience. The study found that relocation of major portions of the trail to bypass incompatible uses would be required. Rather than Federal designation as a component of the National Trails System, the study recommended that short segments of the route which possess scenic and historical features be recommended for recreation development or historical commemoration by Federal, State, or local agencies.

However, the National Parks and Recreation Act of 1978 amended the National Trails System by adding national historic trails as a new category of the trails system. Further, the 1978 Act designated the Oregon National Historic Trail, the Mormon Pioneer National Historic Trail, the Lewis and Clark National Historic Trail, and the Iditarod National Historic Trail as components of the National Trails System under the new historic trail category. Under the 1978 amendments, to qualify for designation as a national historic trail, a trail must meet all three of the following criteria: It must be a trail established by historic use and must be historically significant as a result of that use; it must be of national significance with respect to American history; and it must have significant potential for public recreation use or historical interest based on historic interpretation and appreciation. S. 349 and H.R. 240 would amend the National Trails System Act to include the Santa Fe Trail as a component of the system under the historic trail category.

We believe the conclusions reached in the 1975 study by the Bureau of Outdoor Recreation under criteria applicable to national scenic trails are not necessarily applicable to the suitability of the Santa Fe Trail as a potential national historic trail. We believe that the Sante Fe Trail fully qualifies for designation as a national historic trail. The historical significance of the trail is unquestioned. Its potential for historical interest can be developed through the planning process for designated national historic trails required in section 5 of the National Trails System Act. The Act requires the submission of a comprehensive plan for the trail to be submitted to the legislative Committees of Congress within two complete fiscal years. Under such a plan, we would identify specific trail segments that could be marked and administered by private and public agencies. We would not propose additional land acquisition by the Federal Government. Our goal in the plan would be to set forth the details of how best to provide recognition of the historic route and recommend management practices for those segments that remain.

The historic route traverses highly developed urban areas near Independence, Kansas City, and Santa Fe. In between these metropolitan areas, the route coincides with and intersects various highways, powerlines, and the commercial and residential develop-

ments. The 1975 study did note that in western Kansas and northeastern New Mexico the historic route now follows relatively undisturbed desert lands. Under the historic trail category of the National Trails System Act, however, the established trail need not be continuous on the ground and those segments no longer possible to travel by trail may be marked as segments linked to the historic trail.

We estimate that the cost of the plan required if the Santa Fe Trail is designated as proposed in S. 349 and H.R. 240 would be approximately $100,000.

S. 349 and H.R. 240 also contain a requirement not found in previous trail designations. The bills require that we notify landowners, before acquiring easements or entering into cooperative agreements, of potential liability for injury to the public resulting from physical conditions on the landowner's land. We want to make it clear that, although we do not object to this requirement if it means *reasonable* notice, a landowner's liability, if any, would be determined as a matter of State law. Section 7(h) of the National Trails System Act encourages States to address the issue.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

WILLIAM P. HORN,
Assistant Secretary.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the Act H.R. 240, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

PUBLIC LAW 90-543

(82 Stat. 919)

AN ACT To establish a national trails system, and for other purposes

* * * * * * *

NATIONAL SCENIC AND NATIONAL HISTORICAL TRAILS

SEC. 5. (a) National scenic and national historical trails shall be authorized and designated only by Act of Congress. There are hereby established the following National Scenic and National Historic Trails:

(1) * * *

* * * * * * *

(14) The Nez Perce National Historic Trail, a route of approximately eleven hundred and seventy miles extending from the vicinity of Wallowa Lake, Oregon, to Bear Paw Mountain, Montana, as generally depicted in "Nez Perce (Nee-Me-Poo) Trail Study Report" prepared by the Department of Agricul-

ture and dated March 1982. The report shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Washington, District of Columbia. The trail shall be administered by the Secretary of Agriculture. No lands or interest therein outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the Nez Perce National Historic Trail. The Secretary of Agriculture may designate lands outside of federally administered areas as segments of the trail upon application from the States or local governmental agencies involved if such segments meet the criteria established in this Act and are administered by such agencies without expense to the United States. So that significant route segments and sites recognized as associated with the Nez Perce Trail may be distinguished by suitable markers, the Secretary of Agriculture is authorized to accept the donation of suitable markers for placement at appropriate locations. Any such markers associated with the Nez Perce Trail which are to be located on lands administered by any other department or agency of the United States may be placed on such lands only with the concurrence of the head of such department or agency.

(15) The Sante Fe National Historic Trail, a trail of approximately 950 miles from a point near Old Franklin, Missouri, through Kansas, Oklahoma, and Colorado to Sante Fe, New Mexico, as generally depicted on a map entitled "The Sante Fe Trail" contained in the Final Report of the Secretary of the Interior pursuant to subsection (b) of this section, dated July 1976. The map shall be on file and available for public inspection in the office of the Director of the National Park Service, Washington, District of Columbia. The trail shall be administered by the Secretary of the Interior. No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the Sante Fe Trail except with the consent of the owner thereof. Before acquiring any easement or entering into any cooperative agreement with a private landowner with respect to the trail, the Secretary shall notify the landowner of the potential liability, if any, for injury to the public resulting from physical conditions which may be on the landowner's land. The United States shall not be held liable by reason of such notice or failure to provide such notice to the landowner. So that significant route segments and sites recognized as associated with the Sante Fe Trail may be distinguished by suitable markers, the Secretary of the Interior is authorized to accept the donation of suitable markers for placement at appropriate locations.

* * * * * * *

SEC. 10. * * *

(c)(2) There is hereby authorized to be appropriated for fiscal year 1983 and subsequent fiscal years such sums as may be necessary to implement the provision of this Act relating to the trails designated by paragraphs (9) through (13) *and (15)* of section 5(a) of this Act. Not more than $500,000 may be appropriated for the purposes of acquisition of land and interests therein for the trail desig-

nated by section 5(a)(12) of this Act, and not more than $2,000,000 may be appropriated for the purposes of the development of such trail. The administering agency for the trail shall encourage volunteer trail groups to participate in the development of the trail.

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Calendar No. 99

100TH CONGRESS
1st Session

SENATE

REPORT
100-45

BIG CYPRESS PRESERVE ADDITION

APRIL 21, 1987.—Ordered to be printed

Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 90]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 90) to establish the Big Cypress National Preserve Addition in the State of Florida, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

On page 9 after line 5, insert a new subsection (g) as follows:

> (g) Section 1(c) of the Act of October 11, 1974, is amended by deleting "exchange," and inserting in lieu thereof "exchange (including interstate exchanges with respect to lands or interests therein within the Addition)".

PURPOSE OF THE MEASURE

The purpose of S. 90 is to designate an addition to the existing Big Cypress National Preserve in Florida. The proposed addition comprises approximately 136,000 acres.

BACKGROUND AND NEED

Big Cypress Preserve was established by Public Law 93-440 in 1974. The Preserve contains about 575,000 acres within its boundaries and is typical of the marshlands of southern Florida. The Preserve abuts Everglades National Park to the south, and is an extension of the unique ecosystem of the Everglades, containing large numbers of plant and animal species found nowhere else in North America, including 21 rare or endangered species.

91-010

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This ecosystem exists because of the unusual sheet flow of water at certain times of the year, which covers thousands of square miles and results in the high productivity that supports some of the most biologically diverse areas in the United States. This water flow which runs south from the Preserve through the Everglades is not fully controlled within the Preserve and an area of about 136,000 acres of the northeast boundary is considered a necessary addition to address the water control problem. In addition, the proposed addition contains habitat of the Florida panther, an endangered species native to Big Cypress National Preserve, and Everglades National Park.

For several years, there has been considerable interest in expanding the Preserve by acquiring a large block of land northeast of the present boundary and in a strip along the western boundary. This acquisition is especially timely since much of it can be undertaken through a joint Federal-State effort in connection with the planned construction of Interstate Highway 75 through the existing Preserve and a large portion of the tract of land proposed for acquisition.

This joint Federal-State acquisition effort will combine (1) severance payments from the Florida and Federal Department's of Transportation made to land owners who will lose access to their property as a result of the construction of the interstate highway; (2) moneys made available from the State of Florida for land purchases in the Everglades System; and (3) funds from the Land and Water Conservation Fund. As in the original Big Cypress legislation, acquisition costs would be shared on an 80 percent Federal/20 percent State basis and would be limited to surface acreage only. The measure does not authorize acquisition of the subsurface estate.

The Committee feels that the acquisition of this area will significantly enhance the water quality of Everglades National Park; provide outstanding recreational opportunities; and provide for lands critical to the survival of the endangered Florida panther.

Legislative History

S. 90 was introduced on January 6, 1987, by Senators Chiles and Graham. A hearing was conducted by the Public Lands, National Parks and Forests Subcommittee on February 19, 1987. A similar measure, H.R. 184, passed the House of Representatives on March 31, 1987.

At a business meeting on April 8, 1987, the Senate Committee on Energy and Natural Resources ordered S. 90, as amended, favorably reported.

Committee Recommendations and Tabulation of Votes

The Senate Committee on Energy and Natural Resources, in open business session on April 8, 1987, by unanimous vote of a quorum present recommends that the Senate pass S. 90, if amended, as described herein.

The rollcall vote on reporting the measure was 19 yeas, 0 nays as follows:

YEAS	NAYS
Mr. Johnston	
Mr. Bumpers	
Mr. Ford*	
Mr. Metzenbaum*	
Mr. Melcher	
Mr. Bradley	
Mr. Bingaman	
Mr. Wirth	
Mr. Fowler	
Mr. Conrad	
Mr. McClure	
Mr. Hatfield*	
Mr. Weicker*	
Mr. Domenici*	
Mr. Wallop	
Mr. Murkowski*	
Mr. Nickles*	
Mr. Hecht*	
Mr. Evans*	

*Indicates voted by proxy.

COMMITTEE AMENDMENT

The Committee adopted an amendment to S. 90 which would authorize the Secretary of the Interior to acquire lands located in the Addition using interstate land exchanges in addition to the other methods provided in the 1974 enabling legislation. Under existing law, the Secretary is not permitted to enter into such interstate exchanges to acquire lands inside the boundary of a park system unit.

The Committee is aware that negotiations regarding a major land exchange have been ongoing for over a year between the Department of the Interior and the Collier family, the largest private landowner in this portion of South Florida.

In a March 30th letter to Senator Dale Bumpers, Chairman of the Public Lands, National Parks and Forests Subcommittee, Assistant Secretary Horn briefly outlined the major components of the exchange as follows:

> Under the proposed exchange, the Colliers would convey to the United States approximately 115,000 acres of land in Florida for approximately 105 acres of land in Phoenix, Arizona. The Phoenix lands currently serve as the site of an Indian school managed by the Bureau of Indian Affairs. In a February 3, 1987 report, the Bureau determined that the school facilities there are no longer essential to meeting the educational needs of Arizona Indians, and recommended that the school be closed. The Assistant Secretary for Indian Affairs has recommended that the closure not occur until at least after the 1987–1988 school year to ensure that Indian educational needs are not neglected during the transition. I believe that the exchange, by prospectively making available to the Indians in Arizona significant sums of money that the Department would receive

to equalize the Arizona and Florida land values, can assist in ensuring that adequate provisions are made for meeting these Indian educational needs.

While significant progress toward completing the exchange process has been made, the proposal is not yet in final form. At the Subcommittee hearing on February 19, and in two subsequent letters to members of the Senate Energy and Natural Resources Committee, the Department of the Interior requested that the Committee not report this legislation until the exchange negotiations were completed and the proposal transmitted to the Congress and other affected parties for review.

After considerable discussion, the Committee agreed to order S. 90 reported without further delay. The Committee did, however, adopt the amendment discussed above to authorize interstate exchange with regard to lands in the proposed addition.

By adopting this amendment, it is not the intention of the Committee to sanction interstate land exchanges for lands in the Big Cypress Addition—either the Collier exchange or any other proposal—without further review and approval by the Congress and all the affected parties. Likewise, in agreeing to report the bill without waiting for the specific language of the Collier exchange to be completed, the Committee does not wish to indicate that it is opposed to the exchange proposal or the ongoing negotiations. On the contrary, the Committee endorses the concept of seeking to acquire these lands by a means other than outright purchase.

The Committee views this amendment as a device to move the negotiations process along. The Department has stated that it will be able to place an exchange agreement before the Committee when it returns from the Easter recess. If that agreement is satisfactory to all parties, including the affected congressional delegations of Arizona and Florida, the amendment adopted by the Committee in reporting the bill can, if the Senate so chooses, be deleted on the floor and the specific exchange language included. If, however, consensus among the affected parties is not achieved on this specific exchange then the amendment added to the bill regarding interstate exchanges can be deleted and the bill can move forward if that is the will of the Senate.

The Committee urges the Department and the Colliers, in the strongest possible terms, to meet this latest deadline set forth in the March 30th letter to Senator Bumpers.

Cost and Budgetary Considerations

The Congressional Budget Office estimate of the costs of this measure has been requested but was not received at the time the report was filed. When the report is available, the Chairman will request it to be printed in the Congressional Record for the advice of the Senate.

Regulatory Impact Evaluation

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carry-

ing out S. 90. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 90, as reported.

Executive Communications

On January 21, 1987, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth executive views on S. 90. There reports had not been received at the time the report on S. 90 was filed. When the reports become available, the chairman will request that they be printed in the Congressional Record for the advice of the Senate.

Changes in Existing Law

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 90, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Act of October 11, 1974

Sec. 1. (a) That * * *

* * * * * * *

(c) The Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, transfer from any other Federal agency, or [exchange,] *exchange (including interstate exchanges with respect to lands or interests therein within the Addition)* any lands, waters, or interests therein which are located within the boundaries of the preserve [:] *or the Addition and, any land acquired by the State of Florida, or any of its subdivisions, in the Addition shall be acquired in accordance with subsection (d): Provided,* That any lands owned or acquired by the State of Florida, or any of its subdivisions *in the preserve* may be acquired by donation only: *Provided further,* That no Federal funds shall be appropriated until the Governor of Florida executes an agreement on behalf of the State which (i) provides for the transfer to the United States of all lands within the preserve previously owned or acquired by the State and (ii) provides for the donation to the United States of all lands acquired by the State within the preserve pursuant to the provision of "the Big Cypress Conservation Act of 1973" (chapter 73-131 of the Florida Statutes) or provides for the donation to the United States of any remaining moneys appropriated pursuant to such Act for the purchase of lands within the preserve. No improved property, as defined by this Act, nor oil and gas rights, shall be acquired without the consent of the owner unless the Secretary, in his judgment, determines that such property is subject to, or threatened with, uses which are, or would be, detrimental to the

purposes of the preserve and the addition. The Secretary may, if he determines that the acquisition of any other subsurface estate is not needed for the purposes of the preserve *and the Addition,* exclude such interest in acquiring any lands within the preserve *and the Addition.* Notwithstanding the provisions of section 301 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894, 1904) the Secretary (i) may evaluate any offer to sell land within the preserve *or the Addition* by any landowner and may, in his discretion, accept any offer not in excess of $10,000 without an appraisal and (ii) may direct an appraisal to be made of any unimproved property within the preserve *or the Addition* without notice to the owner or owners thereof. Notwithstanding any other provision of law, any federally owned lands within the preserve shall, with the concurrence of the head of the administering agency, be transferred to the administrative jurisdiction of the Secretary for the purposes of this Act, without transfer of funds. *Nothing in this Act shall be construed to interfere with the right of the State of Florida to acquire such property rights as may be necessary for Interstate 75.*

(d)(1) The aggregate cost to the United States of acquiring lands within the Addition may not exceed 80 percent of the total cost of such lands.

(2) Except as provided in paragraph (3), if the State of Florida transfers to the Secretary lands within the Addition, the Secretary shall pay to or reimburse the State of Florida (out of funds appropriated for such purpose) an amount equal to 80 percent of the total costs to the State of Florida of acquiring such lands.

(3) The amount described in paragraph (2) shall be reduced by an amount equal to 20 percent of the amount of the total cost incurred by the Secretary in acquiring lands in the Addition other than from the State of Florida.

(4) For the purposes of this subsection, the term "total cost" means that amount of the total acquisition costs (including the value of exchange or donated lands) less the amount of the costs incurred by the Federal Highway Administration and the Florida Department of Transportation, including severance damages paid to private property owners as a result of the construction of Interstate 75.

* * * * * * *

SEC. 3. (a) * * *

(b) As used in this Act, the term "improved property" means:

(i) a detached, one family dwelling, construction of which was begun before November 23, 1971, *with respect to the preserve and January 1, 1986, with respect to the Addition* which is used for noncommercial residential purposes, together with not to exceed three acres of land on which the dwelling is situated and such additional lands as the Secretary deems reasonably necessary for access thereto, such land being in the same ownership as the dwelling, and together with any structures accessory to the dwelling which are situated on such lands and

(ii) any other building, construction of which was begun before November 23, 1971, *with respect to the preserve and January 1, 1986, with respect to the Addition* which was constructed and is used in accordance with all applicable State and local

laws and ordinances, together with as much of the land on which the building is situated, such land being in the same ownership as the building, as the Secretary shall designate to be reasonably necessary for the continued enjoyment and use of the building in the same manner and to the same extent as existed in November 23, 1971, *or January 1, 1986, as the case may be,* together with any structures accessory to the building which are situated on the lands so designated. In making such designation the Secretary shall take into account the manner of use in which the building, accessory structures, and lands were customarily enjoyed prior to November 23, 1971, *or January 1, 1986, as the case may be*

* * * * * * *

SEC. 5. The Secretary shall permit hunting, fishing, and trapping on lands and waters under his jurisdiction within the preserve *and the Addition* in accordance with the applicable laws of the United States and the State of Florida, except that he may designate zones where and periods when no hunting, fishing, trapping, or entry may be permitted for reasons of public safety, administration, floral and faunal protection and management, or public use and enjoyment. Except in emergencies, any regulations prescribing such restrictions relating to hunting, fishing, or trapping shall be put into effect only after consultation with the appropriate State agency having jurisdiction over hunting, fishing, and trapping activities. Notwithstanding this section or any other provision of this Act, members of the Miccosukee Tribe of Indians of Florida and members of the Seminole Tribe of Florida shall be permitted, subject to reasonable regulations established by the Secretary, to continue their usual and customary use and occupancy of Federal or federally acquired lands and waters within the preserve *and the Addition,* including hunting, fishing, and trapping on a subsistence basis and traditional tribal ceremonials.

SEC. 6. Notwithstanding any other provision of law, before entering into any contract for the provision of revenue producing visitor services.

(i) the Secretary shall offer those members of the Miccosukee and Seminole Indian Tribes who, on January 1, 1972 *(January 1, 1985, in the case of the Addition),* were engaged in the provisions of similar services, as right of first refusal to continue providing such services within the preserve *and the Addition* subject to such terms and conditions as he may deem appropriate, and

(ii) before entering into any contract or agreement to provide new revenue-producing visitor services within the preserve, *or within the Addition,* the Secretary shall offer to the Miccosukee Tribe of Indians of Florida and the Seminole Tribe of Florida the right of first refusal to provide such services, the right to be open for a period of ninety days. Should both Tribes respond with proposals that satisfy the terms and conditions established by the Secretary, the Secretary may allow the Tribes an additional period of ninety days in which to enter into an inter-Tribal cooperative agreement to provide such visitor services, but if neither tribe responds with proposals that satisfy

the terms and conditions established by the Secretary, then the Secretary shall provide such visitor services in accordance with the Act of October 9, 1965 (79 State. 969, 16 U.S.C. 20) No such agreement may be assigned or otherwise transferred without the consent of the Secretary.

SEC. 7. Within five years from the date of the enactment of this act *with respect to the preserve and five years from the date of the enactment of the Big Cypress National Preserve Addition Act with respect to the Addition,* the Secretary shall review the area within the preserve *or the area within the Addition (as the case may be)* and shall report to the President, in accordance with section 3 (c) and (d) of the Wilderness Act (78 Stat. 891; 16 U.S.C. 1132 (c) and (d)), his recommendations as to the suitability or nonsuitability of any area within the preserve *or the area within the Addition (as the case may be* for preservation as wilderness, and any designation of any such areas as a wilderness shall be accomplished in accordance with said subsections of the Wilderness Act.

SEC. 8. [There] *Except as provided in subsection (b), there* are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, but not to exceed $156,700,000 for the acquisition of lands and interests in lands and not to exceed $900,000 for development. Any funds donated to the United States by the State of Florida pursuant to chapter 73-131 of the Florida statutes shall be used solely for the acquisition of lands and interests in land within the preserve.

(b) There are authorized to be appropriated such sums as may be necessary to acquire lands and for development within the Addition.

SEC. 9. (a) In order to—

(1) achieve the purposes of the first section of this Act;

(2) complete the preserve in conjunction with the planned construction of Interstate Highway 75; and

(3) insure appropriately managed use and access to the Big Cypress Watershed in the State of Florida,

the Big Cypress National Preserve Addition is established.

(b) The Big Cypress National Preserve Addition (referred to in this Act as the 'Addition') shall comprise approximately 136,000 acres as generally depicted on the map entitled Big Cypress National Preserve Addition, dated June, 1986, and numbered 176-91000B, which shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior, Washington, D.C., and shall be filed with appropriate offices of Collier County in the State of Florida. The Secretary shall, as soon as practicable, publish a detailed description of the boundaries of the Addition in the Federal Register.

(c) The area within the boundaries depicted on the map referred to in subsection (b) shall be known as the Big Cypress National Preserve Addition.

SEC. 10. (a) The Secretary shall administer the Addition in accordance with this Act and the provisions of law generally applicable to units of the national park system, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4).

(b) In administering the Addition, the Secretary shall develop and publish in the Federal Register such rules and regulations as the Secretary deems necessary and appropriate to manage and control the use of Federal lands and waters with respect to—

(1) motorized vehicles;

(2) exploration for and extraction of oil, gas, and other minerals;

(3) grazing and agriculture;

(4) draining or constructing of works or structures which alter the natural water courses;

(5) recreational uses, including hunting, fishing, and trapping, which shall be promoted and encouraged;

(6) new construction of any kind; and

(7) such other uses as the Secretary determines must be limited or controlled in order to carry out the purposes of this Act.

(c) For purposes of administering the Addition and notwithstanding section 2(c), it is the express intent of the Congress that the Secretary should substantially complete the land acquisition program contemplated with respect to the Addition in not more than five years after the date of the enactment of this paragraph.

SEC. 11. The Secretary and other involved Federal agencies shall cooperate with the State of Florida to establish recreational and oil, gas, and mineral access points and roads, rest and recreation areas, appropriate wildlife protection, and, where appropriate, hunting, fishing, frogging, and other recreational opportunities in conjunction with the creation of the Addition and in the construction of Interstate Highway 75. Not more than 3 of such access points shall be located within the preserve (including the Addition).

SEC. 12. Not later than one year after the date of the enactment of this section, the Secretary shall submit to the Congress a detailed report on, and further plan for, the preserve and Addition including—

(1) the status of the existing preserve, the effectiveness of past regulation and management of the preserve, and recommendations for future management of the preserve and the Addition;

(2) a summary of the public's use of the preserve and the status of all access rights for public and private use;

(3) the need for involvement of other State and Federal agencies in the management and expansion of the preserve and Addition;

(4) the status of land acquisition; and

(5) a determination, made in conjunction with the State of Florida, of the adequacy of the number, location, and design of the recreational access points on I–75/Alligator Alley for access to the Big Cypress National Preserve Addition.

The determination required by paragraph (5) shall incorporate the results of any related studies of the State of Florida Department of Transportation and other Florida State agencies. Any recommendation for significant changes in the approved recreational access points, including any proposed additions, shall be accompanied by an assessment of the environmental impact of such changes.

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